

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION**

| | | |
|---|---|---------------------|
| S.G. and S.G., as parents |) | |
| and guardians of |) | |
| L.G., a minor, |) | |
| |) | |
| Plaintiffs, |) | Case No. 08-C-50038 |
| |) | |
| vs. |) | |
| |) | |
| ROCKFORD BOARD OF EDUCATION |) | |
| and KENNETH HELD , |) | Judge Kapala |
| in His Capacity as Principal of Rolling Green |) | Magistrate Mahoney |
| Elementary School, |) | |
| |) | |
| Defendants. |) | |

**PLAINTIFFS' MEMORANDUM OF LAW IN SUPPORT OF THEIR RESPONSE TO
DEFENDANTS' MOTION TO DISMISS COUNT IV OF PLAINTIFFS' COMPLAINT**

NOW COMES the Plaintiffs, S.G. and S.G. as parents and guardians of L.G., a minor, by their attorneys, LAW OFFICES OF SHRIVER, O'NEILL & THOMPSON, and as and for their Memorandum of Law in support of their Response to Defendants' Motion to Dismiss Count IV of Plaintiffs' Complaint, states as follows:

INTRODUCTION

Plaintiffs, S.G. and S.G. ("Parents") as the parents of a minor, L.G., have sued the Rockford Board of Education, School District No. 205 (the "Board"), and its principal of Rolling Green Elementary School, Kenneth Held ("Principal Held"), in his official capacity, seeking compensation for violations of federal and state law arising from a first-grade classmate's ("the

problem first-grader”, “harassor” or “perpetrator”) sexual harassment of Plaintiff L.G.

This memorandum adopts all arguments as stated in Section IV of Plaintiffs’ Memorandum of Law in Support of Their Response to Defendants’ Motion for Judgment on the Pleadings, Pg. 9, 10 & 11 as fully set forth herein. Principal Held as the facilities' manager or the responsible overseer of the Rolling Green Elementary school or his designates had the responsibility to maintain the facility and the building itself in a workman-like manner . Any reasonable person would agree that it was negligent to leave a janitor's closet unlocked in a first grade hallway allowing access to 6 year olds. Whether the actual injury that did occur was foreseeable, it is definitely foreseeable that children would play with chemicals, brooms(sticks), equipment of a risky nature, or have access to electric panels, plumbing, gas, or other dangers. It is also foreseeable that young children would hide, go missing, or be locked in an airless closed shaft with chemicals. Obviously missing children would be an extreme disruption to any school instruction day. The inconvenience to the janitor or to the staff at the building must be minimal considering the risk of potential harm to young children to leave the door locked or under an access number known only to adults in that building. It is clearly foreseeable after the warnings given to Principal Held in January, 2007, of the identity of the perpetrator/harassor and the identity of the victim that further harassment could occur without any intervention. By leaving the janitor's closet unlocked it is clearly foreseeable that children, especially first graders, would hide in the closet. Unfortunately for Plaintiff L.G., she as the perpetrator/harassor's victim, was pulled into a situation (the negligently unlocked closet) created by the Defendants. An opportunity for her perpetrator/harassor that was just waiting to happen. 740 ILCS 130/1.

WHEREFORE, for reasons set forth herein, the Plaintiffs request the Court to enter and Order dismissing Defendants' Motion for Judgment on the Pleadings with prejudice and awarding Plaintiffs their costs of suit, and for such other and further relief as this Court deems just and appropriate.

Respectfully submitted,
S.G. and S.G. as parents and guardians of
L.G., a minor, Plaintiffs.

By: /s/Joyce O'Neill Austin
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AFFIDAVIT OF SERVICE

The undersigned certifies that on June 4, 2008, a copy of the following was electronically served vis the U.S. District Court CM/ECF E-Filing System upon the following:

S.G. and S.G. v. Rockford Board of Education, School District No. 205

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